



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0177]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for the Flatbed Carrier Safety Group

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA renews the Flatbed Carrier Safety Group's (FCSG) exemption which allows the securement of metal coils on a flatbed vehicle, in a sided vehicle, or in an intermodal container loaded with eyes crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction. Motor carriers may continue to use the pre-January 1, 2004, cargo securement regulations for the transportation of groups of metal coils with eyes crosswise, as this loading configuration is not currently covered under the Agency's commodity-specific rules for securing metal coils in the Code of Federal Regulations. The Agency has concluded that granting this exemption renewal will likely maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. The Agency welcomes public comments on the renewal.

DATES: This decision is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2010-0177 using any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the Public Participation and Request for Comments section below for further information.

- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA-2010-0177). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL 14 – FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2010-0177), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA-2010-0177” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b)(2) and 49 CFR 381.300(b) to renew an exemption from the Federal Motor Carrier Safety Regulations for a 5-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.”

FCSG has requested a five-year extension of the current exemption in Docket No. FMCSA-2010-0177.

III. Background

FMCSA may renew an exemption from the Federal Motor Carrier Safety Regulations for a five-year period (49 U.S.C. 31315(b)(2)) if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption” (49 U.S.C. 31315(b)(1); see also 49 U.S.C. 31136(e)). FCSG has requested a five-year extension for the exemption from 49 CFR 393.120 to allow motor carriers to comply with the pre-January 1, 2004, cargo securement regulations (then at 49 CFR 393.100(c)) for the transportation of groups of metal coils with eyes crosswise. The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Current Regulation(s) Requirements

Currently, 49 CFR 393.120 specifies requirements for the securement of one or more metal coils which, individually or grouped together, weigh 5,000 pounds or more. Metal coils can be transported with eyes vertical, lengthwise, or crosswise.

Unlike the requirements for securing coils with eyes vertical (49 CFR 393.120(b)) and lengthwise (49 CFR 393.120(d)), the current securement requirements for coils with eyes crosswise (49 CFR 393.120(c)) only speak of *individual coils*; there are no specific requirements for securing *rows of coils*. As such, a motor carrier transporting a row of coils with eyes crosswise must secure each coil as an individual coil in accordance with 49 CFR 393.120(c).

FCSG noted that the regulations in place prior to January 1, 2004, directly addressed the securement of groups of coils loaded with eyes crosswise. Section 393.100(c) previously read as follows:

(c)(3)(ii) *Coils with eyes crosswise*: Each coil or transverse row of coils loaded side by side and having approximately the same outside diameters must be secured by—

(a) A tiedown assembly through the eye of each coil, restricting against forward motion and making an angle of less than 45° with the horizontal when viewed from the side of the vehicle;

(b) A tiedown assembly through the eye of each coil, restricting against rearward motion and making an angle of less than 45° with the horizontal when viewed from the side of the vehicle; and

(c) Timbers, having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the coil or row of coils and restrained to prevent movement of the coil or coils in the forward and rearward directions.

(d) If coils are loaded to contact each other in the longitudinal direction and relative motion between coils, and between coils and the vehicle, is prevented by tiedown assemblies and timbers—

(1) Only the foremost and rearmost coils must be secured with timbers; and

(2) A single tiedown assembly, restricting against forward motion, may be used to secure any coil except the rearmost one, which must be restrained against rearward motion.

Application for Renewal of Exemption

FCSG applied for an exemption from 49 CFR 393.120 in 2010 to allow motor carriers to comply with the pre-January 1, 2004, cargo securement regulations for the transportation of groups of metal coils with eyes crosswise. FMCSA granted the exemption on April 14, 2011 (76 FR 20867) and renewed it on June 11, 2013 (78 FR 35087), June 4, 2015 (80 FR 31956), and again on April 21, 2017 (82 FR 18810). The exemption expires on April 13, 2022.

IV. Equivalent Level of Safety Analysis

FMCSA is not aware of any evidence showing that compliance with the pre-January 1, 2004, cargo securement regulations for the transportation of groups of metal coils with eyes crosswise, in accordance with the conditions of the original exemption, has resulted in any degradation in safety. The Agency believes that extending the exemption for a period of 5 years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because the metal coils are grouped and secured together in the longitudinal direction, *i.e.*, “unitized,” with the cargo securement system meeting all of the aggregate working load limit requirements of 49 CFR 393.106(d).

V. Exemption Decision

A. Grant of Exemption.

FMCSA renews the exemption for a period of 5 years subject to the terms and conditions of this decision. The renewal outlined in this notice extends the exemption from April 13, 2022, through April 13, 2027.

B. Applicability of Exemption

The exemption is restricted to motor carriers that haul metal coils with eyes crosswise in rows in which the coils are loaded to contact each other in the longitudinal direction.

C. Terms and Conditions

Motor carriers covered by the exemption must meet the following requirements while still meeting the aggregate working load limit requirements of 49 CFR 393.106(d).

Coils with eyes crosswise: If coils are loaded to contact each other in the longitudinal direction, and relative motion between coils, and between coils and the vehicle, is prevented by tiedown assemblies and timbers:

(1) Only the foremost and rearmost coils must be secured with timbers having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the row of coils and restrained to prevent movement of the coils in the forward and rearward directions; and

(2) The first and last coils in a row of coils must be secured with a tiedown assembly restricting against forward and rearward motion, respectively. Each additional coil in the row of coils must be secured to the trailer using a tiedown assembly.

D. Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

E. Notification to FMCSA

Motor carriers covered by the exemption must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5T) involving any of its CMVs operating under the terms of this exemption. The notification must include the following information:

- (a) Name of the exemption: “FCSG”;
- (b) Name of the operating motor carrier;
- (c) Date of the accident;
- (d) City or town, and State, in which the accident occurred, or closest to the accident scene;
- (e) Driver’s name and license number;

- (f) Vehicle number and State license number;
- (g) Number of individuals suffering physical injury;
- (h) Number of fatalities;
- (i) The police-reported cause of the accident;
- (j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- (k) The driver's total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be e-mailed to MCPSD@DOT.GOV.

F. Termination

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315.

VI. Request for Comments

FMCSA requests comments from parties with data concerning the safety record of motor carriers transporting groups of metal coils with eyes crosswise, in accordance with the conditions of the exemption. The Agency will evaluate adverse evidence submitted during the comment period and at any time during the 5-year period of the

exemption. If safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b)(1), FMCSA will take immediate steps to revoke the FCSG exemption.

Robin Hutcheson,
Deputy Administrator.

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